K 3.5*
8225. e. 25.

The CASE *of* Stephen Creagh *of* London, *Merchant*, Agent *for the Major-part of the Officers and Seamen lately Serving on Board the* DUKE *and* DUCHESS, *Two Private Men of War.*

In 1708. SEVERAL Merchants in *Briſtol* having, upon the Sanction of the Act of Parliament, *For Encouraging the Trade to* America, fitted out the Two Private Men of War above-mentioned, in order to Cruize upon Her Majeſty's Enemies; It was agreed between the Owners, Officers and Seamen, That the ſaid Officers and Seamen ſhould have One Third Part of the Clear Profits of any Prizes taken by them.

THE ſaid Two Ships Sailed according to their Orders, and after Three Years Voyage (in which they took Conſiderable Prizes, and amongſt others a Rich *Spaniſh* Ship Sailing from *Manila*, one of the *Philippine-Iſlands* to *Aquapulca*) In *Auguſt* laſt they arrived in *Holland* with their Prizes, in order to proceed Home.

AT the time of the Arrival of thoſe Ships in *Holland* Mr. *Creagh* was there, Negotiating his Affairs as a Merchant, and was Importun'd to take upon him the Agency for the ſaid Officers and Seamen (which Agency conſiſts in the Setling and Adjuſting their Reſpective Accompts of Wages and Prizes, and of what had been received by them; as alſo in Aſſiſting at the Sales of all Prize-Goods, and in ſeeing Juſtice done between the Owners and Sailors) and Mr. *Creagh* accepting the ſaid Agency, left his other Affairs in *Holland*, and immediately return'd to *England*, where the ſaid Ships arriv'd in *September* following; and Mr. *Creagh* having firſt given Three hundred thouſand Pounds Security to Perſons for that Purpoſe appointed by the Seamen, he aſſiſted at the Condemning, Unloading and Houſing the Prize-Goods, without any Interruption whatſoever.

THAT the Seamen being very Neceſſitous, and Impatient for Ready-Money (which from the Nature of their Affairs could not be immediately raiſed for them) Mr. *Creagh* ſupply'd them out of his own Pocket to near the Amount of Three thouſand Pounds, upon the Credit of the Wages and Shares due to them: But Mr. *Creagh* happening to Differ with ſome of the Officers, by reaſon of his not Complying with ſome Matters by them inſiſted upon to the Diſadvantage of the Seamen; thoſe Officers, and by their Inſtigation ſome of the Seamen, appointed New Agents for themſelves, *viz.* Mr. *James Campbell* and another Perſon, who immediately Contended for the ſaid Agency in the Court of Admiralty, and there obtained a Sentence, declaring them Agents; and under Colour thereof, got into their Cuſtody the Keys of the Ware-Houſes where the ſaid Prize-Goods were Lodged by Mr. *Creagh*, and Impowered Perſons to join with thoſe Employed by Mr. *Creagh* in Sorting and Valuing the ſaid Goods, and in Diſpatching the other Concerns of the ſaid Agency.

BUT it ſo happening, that moſt of thoſe who had fallen into the Deſign of Appointing New Agents, meeting with Diſappointments in their Expectations from thoſe Agents, in great Numbers return'd to Mr. *Creagh*, and Executed freſh Powers and Authorities to him, to Act on their Behalfs as formerly: So that Mr. *Creagh* having a great Majority for him, and being adviſed, That the Court of *Admiralty* had no Power to Appoint Agents, and finding the ſaid New Agents obſtructed all manner of Sales of the ſaid Goods, ſo long as Mr. *Creagh* acted and appeared as Agent, in *Michaelmas Term* laſt he Exhibited his Bill in *Chancery* againſt thoſe New Agents, and ſome of their principal Adherents, and againſt the ſaid Owners, in order to Settle the Matters in Difference relating to the ſaid Agency. To which Bill, altho' ſome of the *Defendants* did appear, yet but one of them (except the Owners) have Anſwered.

7 *March*, 1711. UPON Motion made to the Lord Keeper, by Councel for the Owners, who repreſented, That the ſaid Conteſt about the Agency was very prejudicial to their Affairs, by Preventing the Sale of the ſaid Prize-Goods, (ſome of which were Periſhable,) and upon Hearing Councel for both the Contending Agents, His Lordſhip was pleaſed to Order, That the Owners ſhould go on with their Sales, and that Four Days Notice of ſuch intended Sales ſhould be given reſpectively to the ſaid Contending Agents, for them to Aſſiſt thereat, if they thought good; and that the Monies ariſing by the Produce of ſuch Sales, ſhould be divided into Three Equal Parts, whereof Two Parts ſhould be Paid to the Owners, and the other Third Part (in regard to the Officers and Seamens Shares) ſhould be brought before a Maſter of the ſaid Court, there to remain till farther Order.

SINCE which, the ſaid New Agents, inſtead of Anſwering the ſaid Bill in *Chancery*, have projected a New Method for Determining the Right of the Subject, in relation to the Matter of Agency, by adding in the Committee, when it was not expected, and which ſeems to be foreign to the Matter of the *Bill* depending in this *Honourable Houſe*, For Collecting and Recovering the Duties for Support of the Charity to *Greenwich-Hoſpital*, the following Clauſe, *viz.*

And be it further Enacted *by the Authority aforeſaid, That in caſe* **there is** *or ſhall be any Diſpute or Controverſy touching the Agency for the ſaid Officers and Seamen, That then ſuch Perſon or Perſons only ſhall be the Agent or Agents for the ſaid Officers and Seamen, as are or*

ſhall

ſhall be Adjudged or Sentenced by the High Court of Admiralty, to be thereunto Lawfully Appointed by the Major Part of the ſaid Officers on their Behalfs, and by the Major Part of the Seamen on their Behalfs.

IF it is thought to be for the Encouragement or Advantage of Seamen, to alter the Law as it now ſtands, by taking from them the Power of Appointing ſuch Perſons as they think may be the fitteſt to be truſted by them in their own Affairs; Mr. *Creagh* humbly hopes this Clauſe may be ſo Amended, that it may not Affect him in particular, by way of Retroſpect; and that if the Houſe ſhall approve any Clauſe of this Kind, it may have a Future Commencement, eſpecially ſince the Matter of the ſaid Agency is now in a Legal Way of Determination.

HOWEVER Plauſible the ſaid Clauſe may ſeem, It will rather tend to create Differences than extinguiſh them, by creating another Juriſdiction in relation to Agencies, and at all Events ſeems Reſtrictive of the Right of the Subject, who has a Power at preſent to Appoint whom he pleaſes to be his Truſtee, Attorney or Agent, without the Controul of any Court whatſoever; but if this Clauſe ſtands as it now is, Agents may be Appointed for all Seamen, who may not be Friends to many of them.

THIS Clauſe, as now Worded, will, *ex poſt Facto*, have the Effect of a Decree; and not only Elude the ſaid Order, but Fruſtrate all the Relief ſought in *Chancery* by Mr. *Creagh*, who being before a proper Judicature, doubts not but in due time to have all ſuitable and proper Relief, without being neceſſitated to begin a New Conteſt in the Court of *Admiralty*; which (except this Clauſe Paſſes) has not as yet any Juriſdiction in the Matter.

Mr. *Creagh* does not deſire, by this Suit in the Court of *Chancery*, to Impoſe himſelf for Agent to any Perſon whatſoever, altho' ſome, by indirect Means, may be prevailed with to Appoint a New Agency: He deſires Liberty only to Act for the Benefit of ſuch as think him more their Friend, and fitter to be Intruſted for them than others, and that the Officers and Seamen may have their Wages, and a juſt Dividend of their Prizes (acquir'd with much Toil and Hazard,) and himſelf be Reimburſed the Great Sum he has already, at their Importunity, Advanced towards the Supply of their Neceſſities.

Note — Mr. *Creagh* has given Security for his Agency, and has no Privilege.

THE whole Matter is therefore humbly Submitted, for ſuch Relief to Mr. Creagh, *and the ſaid Officers and Seamen, as ſhall be Agreeable to the Wiſdom and Juſtice of this* HONOURABLE HOUSE.

Mr. *Creagh's* CASE.

AGAINST

The General Clauſe relating to Agencies for Seamen, added to the BILL, *For Collecting the Duties to Greenwich-Hoſpital.*

48
10 11
453.